

REMARKS

Claims 32-41 and 63 are all the claims pending in the present application. As will be discussed below, Claims 35 and 39-41 have been amended to place them in independent form pursuant to the indication of allowable subject matter on page 3 of the Office Action dated March 1, 2007. No new matter has been added. Accordingly, entry of the present Amendment is requested.

Also, referring to the Examiner Interview Summary dated August 8, 2006, while it is believed that the Examiner Interview Summary contained a detailed discussion of the substance of the interview and nothing further is necessary, a Statement of Substance of the Interview is being concurrently filed herewith.

Claims 32, 34, 36-38 and 63 have been rejected under 35 U.S.C. § 102(e) as assertedly being anticipated by U.S. Patent No. 6,001,118 to Daniel et al. ("Daniel '118"). Additionally, Claim 33 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Daniel '118.

More specifically, Daniel '118 is relied upon to "disclose a filter element comprising a collapsible filter body, a proximal inlet portion (146), a distal outlet portion (148) and a filter support frame (142), wherein the body comprising two layers (mesh layer 144 and frame layer 142) attached together wherein the body portion of the proximal region is inherently softer than the body region at the distal region due to different mesh materials/construction."

In connection with Claim 63, it is indicated that "[t]he filter diameter [is] between the ranges as claimed" and reference is made to col. 14 of Daniel '118, lines 25-30.

With regard to the instantly claimed durometer recited in Claim 33, the Examiner concludes that “the durometer of the filter body as claimed is a workable range [and] it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the filter body having the durometer as claimed in order for the filter body to function.”

Applicants respectfully traverse these rejections for the following reasons.

Independent Claim 32 recites a collapsible filter element for a transcatheter embolic protection device. The filter element includes a collapsible filter body which is movable between a collapsed stored position for movement through a vascular system and an expanded position for extension across a blood vessel such that blood passing through the blood vessel is delivered through the filter element. A proximal inlet portion of the filter body has one or more inlet openings sized to allow blood and embolic material to enter the filter body; and a distal outlet portion of the filter body is provided having a plurality of outlet openings sized to allow through-passage of blood, but to retain embolic material within the filter body. A filter support frame is provided for supporting the filter body in the expanded position when extended across a blood vessel. The filter body includes laminated regions comprising at least two layers extending along the length of at least two of the regions, the regions comprising varying hardness or stiffness along the length between the two regions resulting from different thickness or materials of the laminated regions.

Referring to FIG. 14A of Daniel ‘118 and the accompanying description thereof at col. 8, lines 50-64, device 140 includes struts 142 covered by mesh 144 which includes two mesh portions, 146 and 148. Mesh portion 146 is proximal of mesh portion 148 on device 140 and is a

mesh which will allows stenosis fragments to pass therethrough. Mesh 148 is characterized as “a fairly tight mesh, or a microporous membrane, (or simply loose mesh portion 146 with a microporous membrane or other suitable filter material bonded or cast or otherwise disposed thereover) which does not allow the fragments to pass therethrough and therefore captures and retains the fragments therein.”

Daniel ‘118 does not teach or suggest a filter body as presently claimed including laminated regions comprising at least two layers extending along the length of at least two of the regions, the regions comprising varying hardness or stiffness along the length between the two regions resulting from different thickness or materials of the laminated regions. Accordingly, withdrawal of the rejections is requested.

As mentioned above, dependent Claims 35 and 39-41 have been indicated as containing allowable subject matter. These claims have been rewritten in independent form.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

VALE et al.
Appln. No. 09/985,820
Amendment Under 37 C.F.R. §1.111

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